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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

BP AMERICA, INC., and ATLANTIC  
RICHFIELD COMPANY,

Plaintiffs,

v.

YERINGTON PAIUTE TRIBE;  
YERINGTON PAIUTE TRIBAL COURT;  
and SANDRA-MAE PICKENS in her  
official capacity as Judge of the Yerington  
Paiute Tribal Court,

Defendants.

Case No. 3:17-cv-00588-LRH-WGC

**UNOPPOSED MOTION AND ORDER TO  
ADJUST MOTION AND BRIEFING  
SCHEDULE DUE TO FORTHCOMING  
AMENDED COMPLAINT**  
**(FIRST REQUEST)**

Pursuant to Federal Rules of Civil Procedure 6 and Local Rule IA 6-1, Plaintiffs BP America, Inc. (“BPA”) and Atlantic Richfield Company (“ARC”), move to adjust the current motions and briefing schedule (Dkt. 25) under Fed. R. Civ. P. 12(b) and Local Rule 6-2 due to Plaintiffs’ Amended Complaint, which will be filed on November 16, 2017. Because of Defendants’ motions to dismiss, Plaintiffs are entitled to file an Amended Complaint as a matter of right pursuant to Fed. R. Civ. P. 15(a)(1)(B)). As such, Plaintiffs propose that the current motion and briefing schedule be adjusted accordingly.

Prior to filing this Motion, undersigned counsel conferred with counsel for Defendants Yerington Paiute Tribe (“Tribe”), Laurie A. Thom in her official capacity as Chairman of the Yerington Paiute Tribe (“Chairman Thom”), Yerington Paiute Tribal Court (“Tribal Court”), and Sandra-Mae Pickens (“Judge Pickens”). Counsel for Judge Pickens does not oppose this Motion, and counsel for the Tribal Court stated that he concurs with Judge Pickens’ counsel. Similarly, counsel for the Tribe and Chairman Thom does not oppose this Motion. While Defendants do not oppose this Motion, they expressly reserve and do not waive all arguments, including those relating to jurisdiction and sovereign immunity. Additionally, in agreeing to not oppose this motion, the Tribe and Chairman Thom requested that the following statement be inserted: “The Tribe and Chairman Thom do not believe that any amended complaint can cure Plaintiffs’ jurisdictional infirmities, but recognize that an amended complaint takes the place of Plaintiffs’ current complaint, and therefore in the interest of judicial economy, they are unopposed to Plaintiffs’ proposal to adjust the current motion and briefing schedule. However, the Tribe and Chairman Thom expressly reserve and do not waive their sovereign immunity or their arguments as to jurisdiction.”

This is the first request to coordinate and adjust filing deadlines because of the Amended Complaint.

#### Tribal Court Action

1. On August 18, 2017, the Tribe filed a related action in the Yerington Paiute Tribal Court, captioned *Yerington Paiute Tribe v. BP America Inc. & Atlantic Richfield Co.*, Case No. CV1017, against BPA and ARC (the “Tribal Court Action”).

2. On September 22, 2017, BPA and ARC mailed and served a Motion to Dismiss for Lack of Jurisdiction or, in the alternative, a Motion to Stay Pending Resolution of the Federal Court Action (“Motion to Dismiss”) in the Tribal Court Action. That Motion was file-stamped on September 28, 2017.

3. The Tribe filed an unopposed motion to set deadlines for briefing on BPA and ARC’s Motion to Dismiss, which extended certain deadlines to allow time for this court to rule on the pending issues. BPA and ARC did not waive and expressly reserved all defenses including its challenge to the Tribal Court’s jurisdiction. On November 2, 2017, the Tribal Court entered an Amended Scheduling Order, setting the deadlines for briefing on BPA and ARC’s Motion to Dismiss. Currently, the Tribe’s Response to the Motion to Dismiss is due on December 1, 2017, BPA / ARC’s Reply is due on January 15, 2018, and a hearing is scheduled for January 30, 2018. The parties agreed to discuss a further extension of the hearing date should circumstances warrant.

#### Federal Court Action

1. On September 22, 2017, BPA and ARC filed their Complaint for Declaratory and Injunctive Relief in this court, naming the Tribe, Chairman Thom, the Tribal Court, and Judge Pickens as defendants. BPA and ARC simultaneously filed a Motion for Preliminary Injunction and a Request for Expedited Consideration (“Preliminary Injunction Motion”).

2. BPA and ARC effected service of the Summons, Complaint, and Preliminary Injunction Motion on all four defendants on October 5, 2017. *See* Proofs of Service (ECF No. 18-21).

3. Pursuant to this court’s scheduling order (ECF No. 25), Defendants in this action filed Motions to Dismiss on October 26, 2017, and their responses to BPA’s and ARC’s Motion for Preliminary Injunction on October 27, 2017.

4. Pursuant to Fed. R. Civ. 15(a)(1)(B), BPA and ARC will file an Amended Complaint by the current deadline of November 16, 2017. BPA and ARC will supplement its allegations and add additional parties including members of the Tribal Council who are not currently parties.

1           5.       Council for the Tribe has agreed that it will coordinate with undersigned counsel  
2 for the new Tribal Council member defendants to accept service on or about November 16, 2017.

3           6.       Because Plaintiffs will seek an injunction against the new Tribal Council member  
4 defendants, and modify their arguments based on the Amended Complaint, Plaintiffs request that  
5 this Court allow them to withdraw their pending Motion for Preliminary Injunction and re-file an  
6 Amended Motion for Preliminary Injunction against all (current and new) Defendants per the  
7 proposed briefing schedule below.

8           7.       The requested schedule for withdrawal and re-filing of motions and related  
9 briefing is as follows:

Task	New Deadline
Plaintiffs to file Amended Complaint, and serve new Defendants	November 16 [as a matter of right pursuant to Fed. R. Civ. P. 15(a)(1)(B)]
Plaintiffs withdraw Motion for Preliminary Injunction and File Amended Motion for Preliminary Injunction (“MPI”)	November 16
Defendants file Motions to Dismiss (“MTD”) Amended Complaint	November 30
Defendants file Responses to Amended MPI	November 30
Plaintiffs file Responses to Amended MTD Amended Complaint, and Reply to Defendants’ Responses to Amended MPI	December 14
Defendants file Reply to Plaintiffs’ Response to MTD Amended Complaint	December 21

27           8.       BPA and ARC believe these extended and coordinated deadlines will improve  
28 efficiency and convenience for the court, without significantly affecting expedited consideration

1 of the substantive issues. The Tribe and Chairman Thom stated that they are unopposed to these  
2 deadlines because they track the deadlines set forth in the Court's LR 7-2(b).

3 WHEREFORE, BPA and ARC respectfully request that deadlines under Fed. R. Civ.  
4 P. 12 and Local Rule 7-2 be extended and aligned as set forth above.

5  
6 Respectfully submitted,

7  
8 DATED: November 8, 2017

9 DOTSON LAW

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*Attorneys for Plaintiffs BP America, Inc., and  
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**ORDER**

IT IS SO ORDERED.

DATED this 9th day of November, 2017.

  
LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE